

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed April 7, 2003 ("Office Action"). At the time of the Office Action, Claims 1-46 were pending in the application. In the Office Action, the Examiner rejects Claims 1-46. Applicants have amended Claims 1, 11, 18, 26, and 40 to advance prosecution in this case. No new matter has been introduced by these amendments. Applicants do not admit that these amendments were necessary as a result of any cited art.

**Obviousness-Type Double Patenting Rejections**

The Examiner provisionally rejects Claims 1-46 under 35 U.S.C. § 101 as claiming the same invention as that of Claims 1-55 of co-pending Application No. 09/488,395. Although Applicants do not necessarily agree that the Examiner's rejection is appropriate, Applicants respectfully file herewith a terminal disclaimer to overcome these obviousness-type double patenting rejections. Applicants therefore respectfully request reconsideration and allowance of Claims 1-46.

**Summary of Telephonic Interview**

Applicants' attorneys, Mr. Samir A. Bhavsar and Mr. Chad D. Terrell, conducted a telephonic interview with Examiner Nguyen on July 11, 2003. Pursuant to M.P.E.P. § 713.04, Applicants submit this summary of the telephonic interview to record Applicants' understanding of the substance of the interview. If Applicants' understanding is inaccurate, notice of such is appreciated.

Attorneys for Applicants thank the Examiner for the courtesy of his telephonic interview. During the telephonic interview, Applicants traversed the Examiner's objections under 35 U.S.C. § 112, second paragraph. As outlined below, the Examiner agreed to remove these objections. Applicants also traversed the Examiner's rejections under 35 U.S.C. § 103(a). With respect to independent Claim 1, Applicants discussed the *Johnson* and *Spiegel* references. Applicants discussed the reasons why the proposed *Johnson-Spiegel* combination does not teach, suggest, or disclose several limitations in Applicants' claims.

Although no agreement was reached, the Examiner agreed to consider Applicants' arguments, articulated in this Response, with respect to the rejections.

**Section 112 Rejections**

The Examiner rejects Claims 1-17, and 26-46 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner objects to certain terms in Claims 1-17 and 26-46 as lacking antecedent basis. Applicants address each of the Examiner's objections separately.

- I. The Examiner objects that there is no antecedent basis for "the particular virtual circuit" in Claims 1, 3, 11-13, 15, 26-28, 30, 32-33, 36-37, 40-42, and 44. Applicants respectfully disagree. With respect to Claim 1, for example, the phrase "a particular one of a plurality of virtual circuits" provides sufficient antecedent basis for "the particular virtual circuit." Sufficient antecedent basis for the phrase "the particular virtual circuit" exists in Claims 3, 11-13, 15, 26-28, 30, 32-33, 36-37, 40-42, and 44 for similar reasons. During the telephonic interview, the Examiner agreed that sufficient antecedent basis for "the particular virtual circuit" exists in Claims 1, 3, 11-13, 15, 26-28, 30, 32-33, 36-37, 40-42, and 44, and to withdraw this objection to Claims 1, 3, 11-13, 15, 26-28, 30, 32-33, 36-37, 40-42, and 44.
- II. The Examiner objects that there is no antecedent basis for "the particular subscriber" in Claims 11-17, 26-31, and 40-46. Applicants respectfully disagree. With respect to Claim 11, for example, the phrase "a particular one of a plurality of subscribers" provides sufficient antecedent basis for "the particular subscriber." Sufficient antecedent basis for the phrase "the particular subscriber" exists in Claims 12-17, 26-31, and 40-46 for similar reasons. During the telephonic interview, the Examiner agreed that sufficient antecedent basis for "the particular subscriber" exists in Claims 11-17, 26-31, and 40-46, and to withdraw the objection to Claims 12-17, 26-31, and 40-46.

III. The Examiner objects that there is no antecedent basis for "the particular access server" in Claims 12, 27, and 41-42. Applicants respectfully disagree. With respect to Claim 12, for example, the phrase "a particular one of a plurality of access servers" provides sufficient antecedent basis for the phrase "the particular access server." Sufficient antecedent basis for the phrase "the particular access server" exists in Claims 27 and 41-42 for similar reasons. During the telephonic interview, the Examiner agreed that sufficient antecedent basis for "the particular access server" exists in Claims 12, 27, and 41-42, and to withdraw this objection to Claims 12, 27, and 41-42.

Applicants respectfully submit that Claims 1-17 and 26-46 fully comply with 35 U.S.C. § 112, paragraph 2, and respectfully request withdrawal of this rejection of Claims 1-17 and 26-46.

### **Section 103 Rejections**

The Examiner rejects Claims 1-5, 10-14, 17-21, 26-29, 32-33, 36-37, 40-43, and 46 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,115,427 issued to Johnson, Jr. et al. ("*Johnson*") in view of U.S. Patent No. 5,649,108 to Spiegel, et al. ("*Spiegel*"). Applicants respectfully traverse this rejection.

Nowhere does the proposed *Johnson-Spiegel* combination teach, suggest, or disclose at least the following limitations as recited in Claim 1:

a memory coupled to the access server and operable to store *path information that identifies a virtual circuit assigned to the particular subscriber*;  
and

a processor coupled to the memory and operable to:  
*compare the path information and the particular virtual circuit*  
used to receive the communication from the particular subscriber; and  
*identify the particular subscriber for connection to the second communication network based on the comparison.*

Instead, *Johnson* is merely directed to arrangements for switching multiple packet types combined in a single packet stream such as a switching arrangement which can receive a B-ISDN information stream and selectively connect the incoming packetized information to

the appropriate broadband and narrowband customers in an efficient and cost effective manner. (*See* Column 2, Lines 18-22). This switching arrangement is insufficient to teach, suggest, or disclose Applicants' invention.

**The Proposed Combination Does Not Teach, Suggest, Or Disclose "Path Information"**

For example, the Examiner acknowledges that *Johnson* fails to teach, suggest, or disclose "a memory coupled to the access server and operable to store path information." (Office Action, Page 5). For clarification, Applicants Claim 1 actually recites "a memory coupled to the access server and operable to store path information that identifies *a virtual circuit assigned to the particular subscriber*." *Spiegel* fails to make up for the acknowledged deficiencies of *Johnson*. The cited portions of *Spiegel* are limited to storing the VCIs of received packets. Nowhere does *Spiegel* say anything about storing "path information that identifies a virtual circuit assigned to the particular subscriber," as recited in Claim 1.

One cited portion of *Spiegel* recites, "Exit then is to step 48 where the switch controller 12 at source node reads the connection request and *stores the input VCI of the request and determines an output port ID and an ongoing VCI* to be used for the next hop in a well known manner and *sets them into one entry of the forwarding table 20* of the incoming line interface 10." (Column 7, Lines 13-17). The other cited portion of *Spiegel* recites, "If the decision at step 63 or 67 is affirmative, control exits to step 68 to *set the forwarding table* of the incoming node interface 10 by *storing the VCI contained in the received packet* into the *incoming VCI field* of an entry of the forwarding table, and *storing an output port* determined from the source route field of the packet into and *a selected outgoing VCI* into the forwarding table entry." (Column 8, Lines 43-49). The cited portions of *Spiegel* are clearly limited to storing VCI's of received packets, and at best, determining and storing an outgoing VCI. The forwarding table of *Spiegel* merely stores forwarding information for packets received on certain VCIs. There simply is no assignment of a virtual circuit to a particular subscriber. Thus, the proposed *Johnson-Spiegel* combination fails to disclose, teach, or suggest "a memory coupled to the access server and operable to store path information that identifies a virtual circuit assigned to a particular subscriber," as recited in Claim 1.

**The Proposed Combination Does Not Teach, Suggest, Or Disclose a Processor Operable to Compare the Path Information and the Particular Virtual Circuit Used to Receive the Communication from the Particular Subscriber"**

Neither *Johnson* nor *Spiegel* discloses a comparison, let alone a processor operable to "compare the path information [that identifies a virtual circuit assigned to the particular subscriber] and the particular virtual circuit used to receive the communication from the particular subscriber" as recited in Claim 1, as amended. The cited portion of *Johnson* merely recites, "A broadband packet switch responds to a broadband service request packet identifying first and second broadband customer lines by connecting the service request packet to a control unit via the narrowband switch and the control unit responds to the service request packet by controlling connection of packets between the first and second customer lines." (Column 2, Lines 31-38). The Examiner also relies upon Column 7, Lines 4-47, which discuss the translation tables as illustrated in FIGURES 6, 7, and 8 of *Johnson*. (Office Action, Page 5).

The translation table of *Johnson* appears to merely be a routing table. For example, the translation table of *Johnson* "stores the physical routing header and the new VCI for each packet received on its connected communication path." (Column 6, Lines 49-52). "For VCIs which identify communication among customers, the new VCI and physical routing header stored in translation table 63 are computed by control unit 6017 and transmitted to table 63 when a connection is set up." (Column 6, Lines 52-56). "Other VCIs on the communication paths, e.g. 6115, are permanently assigned to a switching function and the new VCI and physical routing headers associated therewith are stored in the translation table 63 when the system is initialized." (Column 6, Lines 56-61). As can be seen in FIGURES 6-8 of *Johnson*, translation tables 63 for each communication path circuit merely store VCI INs, physical routing headers, and VCI OUTs (to replace the VCI IN). Translation tables 63 are merely pass-through tables – the broadband packet switch gets something in one port and sends it out another port as identified in the translation table 63. *Johnson* does not disclose any sort of comparison, much less a processor operable to "compare the path information [that identifies a virtual circuit assigned to the particular subscriber] and the particular virtual circuit used to receive the communication from the particular subscriber" as recited in Claim

1, as amended. As a result, *Johnson* also fails to teach, suggest, or disclose a processor operable to "identify the particular subscriber for connection to the second communication network based upon the comparison" as recited in Claim 1, as amended. *Spiegel* fails to account for these deficiencies of *Johnson*.

All of Applicants' arguments and amendments are without prejudice or disclaimer. By not responding to additional statements made by the Examiner, Applicants do not acquiesce in the Examiner's additional statements. The distinctions discussed by Applicants is sufficient to overcome the obviousness rejection.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 1, together with all claims that depend from Claim 1. For at least the reasons stated with regard to Claim 1, Applicants respectfully request reconsideration and allowance of independent Claims 11, 18, 26, 32, 36, and 40, together with all claims that depend from Claims 11, 18, 26, 32, 36, and 40.

Claims 2-5 and 10 (which depend from Claim 1), Claims 12-14 and 17 (which depend from Claim 11), Claims 19-21 (which depend from Claim 18), Claims 27-29 (which depend from Claim 26), Claim 33 (which depends from Claim 32), Claim 37 (which depends from Claim 36), and Claims 41-43 and 46 (which depend from Claim 40) depend from allowable independent claims and are allowable for at least this reason. In addition, Claims 2-5, 10, 12-14, 17, 19-21, 27-29, 33, 37, 41-43, and 46 recite further patentable distinctions over the prior art of record. To avoid burdening the record and in view of the allowability of Claims 1, 11, 18, 26, 32, 36, and 40, as described above, Applicants do not specifically discuss in this Response the patentable distinctions of Claims 2-5, 10, 12-14, 17, 19-21, 27-29, 33, 37, 41-43, and 46. However, Applicants reserve the right to discuss these distinctions in a future Response. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 2-5, 10, 12-14, 17, 19-21, 27-29, 33, 37, 41-43, and 46.

The Examiner rejects Claims 6-7, 22-23, 34-35, and 38-39 under 35 U.S.C. § 103(a) as being unpatentable over *Johnson*, in view of *Spiegel*, and further in view of U.S. Patent

6,084,892 issued to Benash, et al. ("*Benash*"). The Examiner rejects Claims 8-9, 15-16, 24-25, 30-31, and 44-45 under 35 U.S.C. § 103(a) as being unpatentable over *Johnson*, in view of *Spiegel*, and in further view of U.S. Patent 5,239,537 issued to Sakauchi ("*Sakauchi*").

Claims 6-9 (which depend from Claim 1), Claims 15-16 (which depend from Claim 11), Claims 22-25 (which depend from Claim 18), Claims 30-31 (which depend from Claim 26), Claims 34-35 (which depend from Claim 32), Claims 38-39 (which depend from Claim 36), and Claims 44-45 (which depend from Claim 40) depend from allowable independent claims and are allowable for at least this reason. In addition, Claims 6-9, 15-16, 22-25, 30-31, 34-35, 38-39, and 44-45 recite further patentable distinctions over the prior art of record. To avoid burdening the record and in view of the allowability of Claims 1, 11, 18, 26, 32, 36, and 40, as described above, Applicants do not specifically discuss in this Response the patentable distinctions of Claims 6-9, 15-16, 22-25, 30-31, 34-35, 38-39, and 44-45. However, Applicants reserve the right to discuss these distinctions in a future Response. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 6-9, 15-16, 22-25, 30-31, 34-35, 38-39, and 44-45.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Samir A. Bhavsar, Attorney for Applicants, at the Examiner's convenience at (214) 953-6581.

A check in the amount of \$110.00 is enclosed for a one-month extension of time. Although Applicants believe no other fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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**Enclosures:**

Terminal disclaimer  
\$110.00 check for terminal disclaimer  
\$110.00 check for extension of time